

OCT 31 2011

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Summary

This Ordinance creates section 14-6, Lake County Code, to be entitled Residency Restrictions for Persons Convicted of Certain Sex Offenses. The purpose of the ordinance is to prohibit persons convicted of certain enumerated offenses from living within 2,500 feet of any school, child care facility, park or playground. It additionally prohibits persons convicted of certain offenses from residing in the same dwelling unit with an unrelated person who has also been convicted of the enumerated offenses.

ORDINANCE NO. 2011--54

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, FLORIDA; CREATING SECTION 14-6, LAKE COUNTY CODE, ENTITLED RESIDENCY RESTRICTIONS FOR PERSONS CONVICTED OF CERTAIN SEX OFFENSES; PROHIBITING PERSONS CONVICTED OF CERTAIN SEX OFFENSES FROM RESIDING WITHIN 2,500 FEET OF ANY SCHOOL, CHILD FACILITY, PARK OR PLAYGROUND; PROHIBITING MORE THAN ONE SEX OFFENDER FROM RESIDING IN THE SAME DWELLING UNIT; PROVIDING FOR ENFORCEMENT; PROVIDING FOR EXCEPTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2004, the Legislature did pass Section 775.215, Florida Statutes, which established a prohibition on persons convicted of certain enumerated sex offenses from residing within 1,000 feet of any school, child care facility, park or playground; and

WHEREAS, several of the municipalities within Lake County have enacted more stringent requirements which could effectively force persons convicted of certain listed offenses into the unincorporated areas; and

WHEREAS, imposing similar residency requirements within the unincorporated county would help curtail the proliferation of sex offenders outside of the cities and provide a measure of protection to the citizens of unincorporated Lake County equal to the protections provided to residents of the municipalities; and

WHEREAS, the Board finds that prohibiting persons who have been convicted of certain enumerated offenses from residing within the same dwelling unit with other unrelated persons convicted of the same offenses provides another measure of protection to the citizens of unincorporated Lake County as it will help to prevent the proliferation of sex offenders in a single community; and

WHEREAS, the Board of County Commissioners has determined that it is in the best interests of the citizens of Lake County to impose a prohibition that is more stringent than that allowed under State law.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Lake County, Florida as follows:

Section 1. Recitals. The foregoing recitals are true and correct and incorporated herein by reference.

Section 2. Creation. Section 14-6, Lake County Code, to be entitled "Residency Restrictions for Persons Convicted of Certain Sex Offenses," is hereby created to read as follows:

14-6 Residency Restrictions for Persons Convicted of Certain Sex Offenses.

(a) *Definitions.* The following terms apply to this Section:

(1) *Child care facility* has the same meaning as provided in Section 402.302, Florida Statutes.

(2) *Park* means all public and private property specifically designated as being used for recreational purposes and where children regularly congregate.

(3) *Playground* means a designated independent area in the community or neighborhood that is designated solely for children and has one or more play structures.

(4) *Related To* shall mean a spouse, parent, sibling, child or stepchild, uncle, aunt, nephew, niece, grandparent, grandchild or half- sibling.

(5) *School* has the same meaning as provided in Section 1003.01, Florida Statutes, and includes a private school as defined in Section 1002.01, Florida Statutes, a voluntary prekindergarten education program as described in Section 1002.53(3), Florida Statutes, a public school as described in Section 402.3025(1), Florida Statutes, the Florida School for the Deaf and the Blind, the Florida Virtual School as established under Section 1002.37, Florida Statutes, and a K-8 Virtual School as established under Section 1002.415, Florida Statutes, but does not include facilities dedicated exclusively to the education of adults.

(b) *Residency Restriction.* The following residency restrictions are hereby imposed as of the effective date of this Section:

(1) A person who has been convicted of a violation of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, Florida Statutes, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, may not reside within 2,500 feet of any school, child care facility, park, or playground. However, a person does not violate this subsection and may not be forced to relocate if he or she is living in a residence that meets the requirements of this subsection and a school, child care facility, park, or playground is subsequently established within 2,500 feet of his or her residence.

(2) A person who has been convicted of an offense in another jurisdiction that is similar to a violation of s. 794.011, s. 800.04, s. 827. 071, s. 847.0135(5), or s. 847.0145, Florida Statutes, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, may not reside within 2,500 feet of any school, child care facility, park, or playground. However, a person does not violate this subsection and may not be forced to relocate if he or she is living in a residence that meets the requirements of this subsection and a school, child care facility, park, or playground is subsequently established within 2,500 feet of his or her residence.

(3) A person who has been convicted of a violation of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, Florida Statutes, or who has been convicted of an offense in another jurisdiction that is similar to the offenses listed herein, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, may not reside in the same dwelling unit with an unrelated person who has also has been convicted of the same or similar offenses.

(c) *Enforcement.* A person who violates this subsection commits a misdemeanor of the second degree, punishable as provided for by law. The County shall additionally have the right to enforce the provisions of this section in the same manner as any other violation of the County Code.

(d) *Exceptions.* The following exceptions shall apply:

(1) Nothing herein shall apply to persons lawfully residing at a prohibited location, or who have entered into a valid and binding contract to purchase or lease a residence at a prohibited location, prior to the effective date of this Section, and this Section shall not be interpreted so as to impair valid, existing and bona fide contract rights; however, the provisions of this Section shall apply upon expiration or termination of any leasehold arising from a landlord/tenant relationship. When a person who is subject of this Section changes residence or commences a new or renewed lease term, this Section shall fully apply to such persons.

(2) Subsection (b)(3) shall not prohibit persons related to each other, as that term is defined in Subsection (a), from residing in the same dwelling unit even if more than one have been convicted of an offense enumerated herein.

Section 3. Severability. If any section, sentence, clause, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this Ordinance.

Section 4. Inclusion in the Code. It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lake County Code and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

1 **Section 5.** **Filing with the Department of State.** The Clerk shall be and is
2 hereby directed forthwith to send a certified copy of this Ordinance to the Secretary of State for
3 the State of Florida.

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5 **Section 6.** **Effective.** This Ordinance shall become effective as provided for by
6 law.

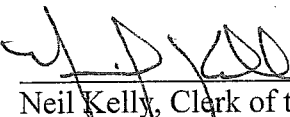
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8 Enacted this 18 day of Oct, 2011.

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10 Filed with the Secretary of State October 27, 2011.

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12 Effective October 27, 2011.

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21 ATTEST:

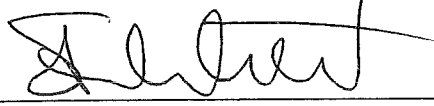
BOARD OF COUNTY COMMISSIONERS
OF LAKE COUNTY, FLORIDA

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26 Neil Kelly, Clerk of the
27 Board of County Commissioners
28 of Lake County, Florida

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Jennifer Hill, Chairman

30 This 19 day of Oct, 2011.

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32 Approved as to form and legality:

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35 Sanford A. Minkoff
36 County Attorney
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